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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,055	09/10/2003	Simon John Knece	ASTU-001/01US 017622-2011	7300
23419 7590 10/17/2008 COOLEY GODWARD KRONISH LLP ATTN: Patent Group Suite 1100 777 - 6th Street, NW Washington, DC 20001				
EXAMINER				
NANO, SARGON N				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/660,055

Applicant(s)

KNEE ET AL.

Examiner

SARGON N. NANO

Art Unit

2457

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/7/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is responsive to communication filed on July 7, 2008. Claims 1 – 32 are pending examination.

Response to Argument

The declaration filed on 7/7/2008 under 37 CFR 1.131 has been considered but is ineffective to overcome the Osman et al U.S. Patent Application 2004/0024894 reference.

Applicant is attempting to show conception of invention prior to August 2, 2002, the effective filing date of Osman et al 2004/0024894, coupled with *reasonable diligence* as evidenced included in Exhibits A - G and reduction to practice as alleged by applicants.

The affidavit or declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice “amounts essentially to mere pleading, unsupported by proof or a showing of facts” and, thus, does not satisfy the requirements of 37 CFR 1.131(b). In re Borkowski, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant. 505 F.2d at 718-19, 184 USPQ at 33. See also In re Harry, 333 F.2d 920, 142 USPQ 164 (CCPA 1964) (Affidavit “asserts that facts exist but does not tell what they are or when they

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occurred.").

Note: Exhibits D through G are not provided.

Applicants claim the submitted evidence (exhibits A - C) demonstrates, in a manner consistent with 37 CFR 1.31 and MPEP 715, conception prior to the effective Date of Osman and reasonable diligence from prior to such effective date until actual reduction to practice of the invention. This is vague and mere pleading, this is not a clear explanation. Thus the applicants have not met their burden. In addition applicants have not shown what part of the exhibits A – C pertain to each and every claim limitations currently claimed.

The declaration submitted by the applicant does not show how the exhibits (A – C) establish diligence. For example, applicant have not shown diligence prior to filing date i.e. up until August 2, 2002, nor between August 2, 2002 up until October 17, 2002.

Therefore the evidence submitted is not sufficient and patent application publications and certain international application publications having an effective prior art date prior to the application being examined may be used in a rejection of the claims. See MPEP § 706.02(a) and § 2136- § 2136.03. Thus , the prior art cited by the examiner, Osman et al. U. S. Patent Publication 2004/0024894 does overcome the effective filing date of the applicants' invention.

Priority

2. This application claims the benefit of provisional application 60,419,710 (October 17, 2002).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 – 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Oman et al U.S. Patent. Publication No. 2004/0024894 (referred to hereafter as Osman).

As to claim 1, Osman teaches a method of processing data in a stateful protocol processing system configured to process multiple flows of messages, said method comprising:

receiving a first plurality of messages of a first of said flows, said first of said flows comporting with a first stateful protocol (see paragraph 0010 - 0011);

deriving events of at least a first type and a second type from said first plurality of messages (see paragraph 0010 - 0011, Osman discloses events associated with flows are derived from received messages);

assigning a first protocol processing core to process said events of said first type accordance with said first stateful protocol, said first protocol processing core being

selected from among a plurality of protocol processing cores identified in a memory structure as being compatible with said events of said first type (see paragraphs 0011-0013 Osman discloses assignment of processing protocol cores to events of flows); and assigning a second protocol processing core to process said events of said second type in accordance with said first stateful protocol (see paragraphs 0011- 0013 Osman discloses assignment of multiple processing protocol cores to events of flows).

As to claim 2, Osman teaches the method of claim 1 further including: receiving a second plurality of messages of a second of said flows, said second of said flows comporting with a second stateful protocol; and deriving events of at least a third type and a fourth type from said second plurality of messages (see paragraphs 0011-0013 Osman discloses assignment of processing protocol cores to events of flows).

As to claim 3, Osman teaches the method of claim 2 further including: assigning a third protocol processing core to process said events of said third type in accordance with said second stateful protocol (see col.) ; and assigning a fourth protocol processing core to process said events of said fourth type in accordance with said second stateful protocol (see claim 49) .

As to claim 4, Osman teaches the method of claim 2 further including: assigning said first protocol processing core to process said events of said third type in

accordance with said second stateful protocol (see claim 49.); and assigning said second protocol processing core to process said events of said fourth type in accordance with said second stateful protocol (see claim 49).

As to claim 5, Osman teaches the method of claim 1 further including: identifying a first plurality of protocol processing cores configured to process said events of said first type (see .); and selecting said first protocol processing core from among said first plurality of protocol processing cores (see paragraph 0032).

As to claim 6, Osman teaches the method of claim 5 further including: identifying a second plurality of protocol processing cores configured to process said events of said second type and selecting said second protocol processing core from among said second plurality of protocol processing cores (see paragraph 0032 and fig.1A.).

As to claim 7, Osman teaches the method of claim 1 further including: extracting a first flow identification key from said first plurality of messages (see paragraph 005); generating a first local flow identification proxy based upon said first flow identification key; and retrieving a first flow state characterizing said first of said flows using said first local flow identification proxy(see paragraphs 049 – 0050).

As to claim 8, Osman teaches the method of claim 7 further including: extracting a second flow identification key from said second plurality of messages (see paragraph 0119);
generating a second local flow identification proxy based upon said second flow

identification key; and retrieving a second flow state characterizing said second of said flows using said second local flow identification proxy (see paragraphs 049 – 0050).

As to claim 9, Osman teaches the method of claim 2 further including:
receiving said first plurality of messages over a first logical channel; defining a first class of events corresponding to at least said events of said first type and said events of said second type; and executing a first event-handling routine applicable to said first class of events (see paragraph 0123).

As to claim 10, Osman teaches the method of claim 9 further including:
receiving said second plurality of messages over a second logical channel;
defining a second class of events corresponding to at least said events of said third type and said events of said fourth type; and executing a second event-handling routine applicable to said second class of events (see paragraph 0123).

As to claim 11, Osman teaches the method of claim 3 further including:
retrieving a first flow state characterizing said first of said flows ; partitioning said first flow state into a first workspace portion and a second workspace portion; and assigning said first workspace portion to said first protocol processing core and said second workspace portion to said second protocol processing core(see paragraph 0067).

As to claim 12, Osman teaches the method of claim 11 further including:

retrieving a second flow state characterizing said second of said flows; partitioning said second flow state into a third workspace portion and a fourth workspace portion; and assigning said third workspace portion to said third protocol processing core and said fourth workspace portion to said fourth protocol processing core (see paragraph 0067).

As to claim 13, Osman teaches the method of claim 2 further including:

setting a first flow timer associated with said first of said flows; generating a first timeout expiration event upon expiration of said first flow timer; and forwarding said first timeout expiration event to a first selected protocol processing core (see paragraph 0064).

As to claim 14, Osman teaches the method of claim 13 further including:

setting a second flow timer associated with said second of said flows;
generating a second timeout expiration event upon expiration of said second flow timer;
and forwarding said second timeout expiration event to a second selected protocol processing core (see paragraph 0064).

As to claim 15, Osman teaches the method of claim 1 further including:

generating an additional event based upon a current state of said first of said flows;
retrieving a current flow state on the basis of said additional event see paragraph 0119); and
assigning a third protocol processing core, different from said first protocol processing core and second protocol processing core, to continue processing said events of said first type and said second type (see 0019).

As to claim 16, Osman teaches the method of claim 2 further including: establishing a first communication buffer associated with said first of said flows, said first communication buffer being of a first buffer size based upon information within said first plurality of messages (see paragraph 0037); and establishing a second communication buffer associated with said second of said flows, said second communication buffer being of a second buffer size based upon information with said second plurality of messages (see paragraph 0087).

As to claim 17, Osman teaches the method of claim 16 wherein said first communication buffer is comprised of a predetermined number of pages of equal size wherein one of said pages is allocated in connection with each of a plurality of allocation operations performed during communication of data associated with said first of said flows (see paragraph 0071).

Claims 18 – 32 do not teach above and beyond the limitations of claims 1 – 17 and therefore are rejected under the same rationale.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140

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F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 – 31 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 - 41 of copending Application No. 10,211,434. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1 – 41 of Patent Application Number 10,211,434 contains every element of the claims 1 – 31 of the instant application and thus anticipate the claims of the instant application. Claim(s) as such is/are unpatentable over obvious type double patenting. A later patent/application claim is not patentably distinct from an earlier claim if the later claim is anticipated by earlier claim.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Instant application 10/660 055	Pending Application 10/211,434
<p data-bbox="119 217 508 309">1. A method of processing data in a stateful protocol processing system configured to process multiple flows of messages, said method comprising:</p> <p data-bbox="119 427 484 519">receiving a first plurality of messages of a first of said flows, said first of said flows comporting with a first stateful protocol;</p> <p data-bbox="119 539 467 611">deriving events of at least a first type and a second type from said first plurality of messages;</p> <p data-bbox="119 631 505 723">assigning a first protocol processing core to process said events of said first type in accordance with said first stateful protocol; and</p> <p data-bbox="119 743 505 835">assigning a second protocol processing core to process said events of said second type in accordance with said first stateful protocol</p>	<p data-bbox="533 217 912 401">1. A method of processing data in a stateful protocol processing system ("SPPS") that processes a multiplicity of flows of messages, each flow being associated with a uniquely corresponding flow identification ("FID") that is conveyed by messages belonging to such flow, the method comprising:</p> <p data-bbox="533 427 885 467">a) receiving a plurality of messages belonging to a particular flow;</p> <p data-bbox="533 493 885 559">b) deriving SPPS events associated with the particular flow from the received messages;</p> <p data-bbox="533 585 906 723">c) specifically assigning a first protocol processing core ("PPC") to process one or more events of the particular flow in accordance with a stateful protocol (SP) of the particular flow; and</p> <p data-bbox="533 743 896 861">d) specifically assigning a different second PPC to process one or more other events of the particular flow in accordance with the SP of the particular flow.</p>

Instant application 10/660 055	Pending Application 10/211,434
<p>18. A stateful protocol processing apparatus configured to process multiple flows of messages, said apparatus comprising :</p> <p>an input processing unit disposed to <i>receive a first plurality of messages of a first of said flows</i>, said input processing unit <i>deriving events of at least a first type and a second type from said first plurality of messages;</i></p> <p> a first protocol processing core;</p> <p>a second protocol processing core; and a dispatcher operative to <i>assign said first protocol processing core to process said events of said first type in accordance with a first stateful protocol and to assign said second protocol processing core to process said events of said second type in accordance with said first stateful protocol.</i></p>	<p>18. A method of processing data in a data communication stateful protocol processing system that processes a multiplicity of flows of data communication messages, each flow being associated with a uniquely corresponding flow identification ("FID") that is conveyed by messages belonging to such flow, the method comprising:</p> <p> <i>a) receiving messages belonging to a particular flow and messages belonging to other flows;</i></p> <p> b) deriving events from the received messages that are associated with the flow indicated by the FID of the message from which they are derived, including events associated with the particular flow and events associated with the other flows;</p> <p> c) placing each event in one of a group of one or more preliminary processing queues;</p> <p> d) <i>assigning a first protocol processor core ("PPC") to process a first event of the particular flow</i> without regard to the preliminary processing queue in which the first event is located, and subsequently transferring the first event to a local queue of the assigned first PPC; and</p> <p> e) <i>assigning a different second PPC to process a different second event of the particular flow</i> without regard to the preliminary processing queue in which the second event is located, and subsequently transferring the second</p>

	event to a local queue of the assigned second PPC.
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Arguments have been addressed above. No new grounds of rejection.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sargon Nano
Oct. 10, 2008

/ARIO ETIENNE/
Supervisory Patent Examiner, Art Unit 2457